

REMARKS

Claims 1-31 and 34-35 remain pending further examination while claims 32-33 and 36-38 are herein withdrawn. Claims 2, 19 and 23 are herein amended. Support for amended claim 2 can be found at least at page 9, lines 24-31. Support for amended claim 19 can be found at least at page 22, lines 14-31. Support for amended claim 23 can be found at least at page 4, lines 21-22. *No new matter is added.*

Based on the Office communication, the Examiner asserts that the instant application contains specie claims that lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. Specifically, it is the Examiner's position that the species lack the same or corresponding special technical features because component (b) and general formula (V), has been disclosed by Bell *et al.*, J. Med. Chem., 11, pp 457-461. Particularly, the Examiner points to compound XLV at p.459, Table I of Bell *et al.* Moreover, the Examiner asserts that a species of component (a), of general formula (I), has also been disclosed by Yu *et al.*, in WO2002/26228 at p.29 (compound 10 therein).

The restriction requirement therefore requires Applicants to "define each of R^1-R^n , n , X and any other variables required for the elected species for component (b). The restriction requirement also requires Applicants to define each R^1-R^n , X , Y , n , Z , Q , A , B , L^1-L^n , and any additional variables as required for the elected species of component (a).

Applicants traverse the Restriction Requirement on the ground that the inventions of claims 1-38 possess a common special technical feature over Bell *et al.* and Yu *et al.* PCT Rule 13.2 states that claims shall fulfill the unity requirement "when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression 'special technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." Applicants respectfully bring the Examiner's attention to the fact that the claimed invention is directed to a novel composition, and methods of using the same, wherein said composition comprises a component (a) and a component (b). While components (a) and (b) are elements of the claimed inventions, they do not reflect the scope of the invention and are not themselves defined species. The common technical feature of claims 1-38 is the pharmaceutical

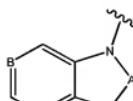
composition comprising both the inhibitor of the RSV fusion protein and the benzodiazepine derivative capable of inhibiting RSV replication. Each of the generic and species claims 1-38 are directed to this common technical feature. Neither Bell *et al.* nor Yu *et al.* anticipates, teaches, or suggests a composition comprising component (a) **and** (b) as defined in the instant application. Accordingly, all the generic and specie claims, 1-38, possess a common special technical feature over both Bell *et al.* and Yu *et al.*

Applicants further submit that the search and examination of all the claims will have substantial overlap, and no serious burden will result from searching and examining all claimed subject matter in the same application. In view of the identity of the claim elements, and the data bases and powerful computer search engines available to the Examiner, there would be no serious burden in examining all the claimed subject matter in a single application.

Accordingly, it is respectfully requested that the restriction requirement be withdrawn, and that all of the claimed subject matter presently pending in this application be examined.

Nevertheless, in compliance with the directives in the Office communication and in order to expedite prosecution of the instant application, Applicants elect composition claims 1-31 and 34-35 with traverse and make the following specie election.

For component (a), Applicants elect, **with traverse**, 1-isopropenyl-3-(1-propyl-1H-benzoimidazol-2-ylmethyl)-1,3-dihydro-imidazo[4,5-c]pyridine-2-one wherein when component (a) is defined by generic compound (I), R¹, R², and R³ are each hydrogen; -X is a direct link and

-Y = H; Z = -CR⁶R' wherein R⁶ = H and R' = propyl; Q = , wherein A₁ = -C(O), A₂ = -NR'', R'' = -isopropenyl, and B = N. This specie election is encompassed by claims 1-38.

For component (b), Applicants elect, **with traverse**, (S)-1-(2-fluorophenyl)-3-(2-oxo-5-phenyl-2,3-dihydro-1H-benzo[e][1,4]diazepin-3-yl)urea wherein when component (b) is defined by generic compound (V) then R¹ = phenyl, R² = H, n = 0, R⁴ = H, R⁵ = XR⁶ wherein X = -CO-, R⁶ = NR'R'', wherein R' = H and R'' = phenyl substituted with fluorine. This specie election is encompassed by claims 1-38.

Applicants reserve the right to pursue the non-elected subject matter, in this or one or more subsequent patent applications.

As acknowledged by the Examiner, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. It is further Applicants' understanding that the election is for search purposes only and that the search will be extended to additional species upon a finding of allowable subject matter.

Applicants submit herewith the fee set forth in 37 C.F.R. 1.17(a). It is Applicants' understanding that this \$2,350.00 fee is required for the petition for an extension of time for responding to the Restriction Requirement. However, should any additional fees be necessary, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-4876, under Order No. 117750-01801.

If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned attorney at (617) 449-6500.

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Respectfully submitted,

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